



# Department of Justice

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AT  
(202) 514-2007  
TDD (202) 514-1888

**DEPARTMENT OF JUSTICE ISSUES BUSINESS**  
**REVIEW LETTER ON TESTING OF SMOKELESS TOBACCO**

WASHINGTON, D.C. -- The Department of Justice announced today that it does not intend to challenge under the antitrust laws a proposal by the leading smokeless tobacco producers in the United States to form a research joint venture to develop uniform analytical methods for measuring the nicotine and moisture content of smokeless tobacco products.

Smokeless tobacco products include various types of chewing tobacco and snuff such as loose leaf, plug, twist, and moist or dry snuff.

The research joint venture was formed in response to the enactment of the Comprehensive Smokeless Tobacco Health Education Act of 1986, 15 U.S.C. Section 4403, which requires producers of smokeless tobacco products to file reports as to the nicotine content of their products and to a request by the Department of Health and Human Services (HHS) that the companies develop uniform testing methods to report the nicotine and moisture content of their products.

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The Department's position was stated in a letter from J. Mark Gidley, Acting Assistant Attorney General in charge of the Antitrust Division, to counsel for the joint venture.

Gidley stated that participation in the venture is unlikely to be anticompetitive because the information to be exchanged among the venture participants will be solely of a technical nature and will not relate to marketing, product prices, sales, product development, product costs, or other similar information that would risk raising concerns under the antitrust laws. Additionally, appropriate procedures will be adopted to prevent smaller competitors from being unfairly excluded from the operations of the venture or unfairly disadvantaged by it. The joint venture, according to Gidley, will develop a new, standardized means of testing techniques not currently available.

Participants in the joint venture include United States Tobacco Company, The Pinkerton Tobacco Company, National Tobacco Company, Conwood Company, R.C. Owen, Helme Tobacco Company and House of Windsor. In 1991, smokeless tobacco sales in the United States exceeded \$1 billion.

Under the Department's business review procedure, an organization may submit a proposed course of action to the Antitrust Division and receive a statement as to whether the Division would challenge that action under the federal antitrust laws.

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A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Room 3233, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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